



**NEW CINGULAR WIRELESS PCS, LLC (AT&T)**

**Application to the  
State of Connecticut Siting Council**

**For a Certificate of  
Environmental Compatibility and Public Need**

**—New Milford Facility—**

**Docket No. \_\_\_\_**

## Contents

Table of Figures .....	iii
List of Attachments.....	iii
<b>I. Introduction .....</b>	<b>1</b>
A. <u>Purpose and Authority</u> .....	1
B. <u>Executive Summary</u> .....	1
C. <u>The Applicant</u> .....	3
D. <u>Application Fee</u> .....	3
E. <u>Compliance with C.G.S. § 16-50(c)</u> .....	4
<b>II. Service and Notice Required by C.G.S. § 16-50(b) .....</b>	<b>4</b>
<b>III. Statements of Need and Benefits .....</b>	<b>4</b>
A. <u>Statement of Need</u> .....	4
B. <u>Statement of Benefits</u> .....	8
C. <u>Technological Alternatives</u> .....	9
<b>IV. Site Selection and Tower Sharing .....</b>	<b>10</b>
A. <u>Site Selection</u> .....	10
B. <u>Tower Sharing</u> .....	10
C. <u>Facility Design</u> .....	11
<b>V. Environmental Compatibility .....</b>	<b>12</b>
A. <u>Visual Assessment</u> .....	12
B. <u>Wetlands</u> .....	13
C. <u>Solicitation of State and Federal Agency Comments</u> .....	13
D. <u>Power Density</u> .....	14
E. <u>Other Environmental Factors</u> .....	14
<b>VI. Consistency with the Town of New Milford's Land Use Regulations .....</b>	<b>15</b>
A. <u>New Milford's Plan of Conservation and Development</u> .....	15
B. <u>Local Zoning Standards and Dimensional Requirements</u> .....	15
C. <u>Planned and Existing Land Uses</u> .....	17

D.	<u>New Milford's Inland Wetlands and Watercourses Regulations</u> .....	18
<b>VII.</b>	<b>Consultation with Municipal Officials</b> .....	<b>19</b>
<b>VIII.</b>	<b>Estimated Cost and Schedule</b> .....	<b>19</b>
A.	<u>Overall Estimated Cost</u> .....	19
B.	<u>Overall Scheduling</u> .....	20
<b>IX.</b>	<b>Conclusion</b> .....	<b>20</b>

### Table of Figures

Figure 1:	Aerial Map .....	2
Figure 2	Estimated Costs.....	19

### List of Attachments

1. Radio Frequency Engineering Report with Coverage Plots
2. Site Search Summary with Map of Sites Searched and List of Existing Tower/Cell Sites
3. Description and Design of Proposed Facility, with Topographical Map, Aerial Map; Drawings, FAA 1-A Survey Certification and TOWAIR Determination Results
4. Environmental Assessment Statement with Correspondence from the Department of Energy and Environmental Protection (DEEP), Wetland Investigation Report, Avian Resources Evaluation, Cultural Resources Report, Power Density Report
5. Visibility Analysis
6. Correspondence with the Town of New Milford; Public Information Meeting Minutes
7. Notice to Abutting Landowners with Legal Notice published in The New Milford Spectrum; Certification of Service; List of Abutting Landowners
8. Certification of Service on Governmental Officials including List of Officials Served
9. Connecticut Siting Council, Community Antennas Television and Telecommunication Facilities Application Guide

## I. Introduction

### A. Purpose and Authority

Pursuant to Chapter 277a, § 16-50g et seq. of the Connecticut General Statutes (“C.G.S.”), as amended, and § 16-50j-1 et seq. of the Regulations of Connecticut State Agencies (“R.C.S.A.”), as amended, New Cingular Wireless PCS, LLC (“AT&T”), the Applicant, hereby submits an application and supporting documentation (collectively, the “Application”) for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a wireless communications facility (the “Facility”) on the FirstLight Hydro Generating Company property located on Kent Road in the Town of New Milford.

The proposed Facility is a necessary component of AT&T’s wireless network, in that it will enable AT&T to provide reliable personal wireless services in the northwestern portion of New Milford, the Gaylordsville area, including portions of U.S. Highway 7 (Kent Road), residences and other establishments in the surrounding area. The proposed site for the Facility is the approximately 168.5 acre property owned by the FirstLight Hydro Generating Company located on Kent Road in the northwest portion of the Town.

### B. Executive Summary

AT&T is licensed by the Federal Communications Commission (“FCC”) to provide wireless telecommunications services in the state of Connecticut, including the Town of New Milford. In fulfilling its federal obligations, AT&T uses data regarding its network to identify areas where wireless services are unreliable. Based on this data, AT&T determined that wireless services in the northwest part of New Milford, the Gaylordsville area, particularly the areas in the vicinity of U.S. Route 7, are not reliable.

The search area consists principally of the FirstLight Hydro Generating Company Bulls Bridge Hydroelectric station facility, rural single family residential uses, and unprotected open space with U.S. Route 7 (Kent Road), a regional arterial road, routed north-south through the search area. AT&T evaluated this area of the state and determined that there are no co-location opportunities, existing tower sites, or tall structures available for siting.

After evaluating several parcels for the siting of the needed facility, AT&T secured a lease for an approximately 10,000 square-foot area of the southwestern portion of the approximately 168.5 acre FirstLight Hydroelectric Generating Company parcel.

The proposed Facility consists principally of a new 150-foot tall self-supporting monopole and associated compound. The tower compound will consist of a 75' x 75' fenced area to accommodate AT&T's equipment shelter and a 4' x 12' concrete pad for AT&T's emergency generator as well as additional space for co-location by other wireless carriers. Vehicular access to the Facility will be provided from Kent Road over the existing paved driveway and then along a dirt road that will be upgraded to a 12' wide gravel driveway to the tower compound a distance of approximately 430'.

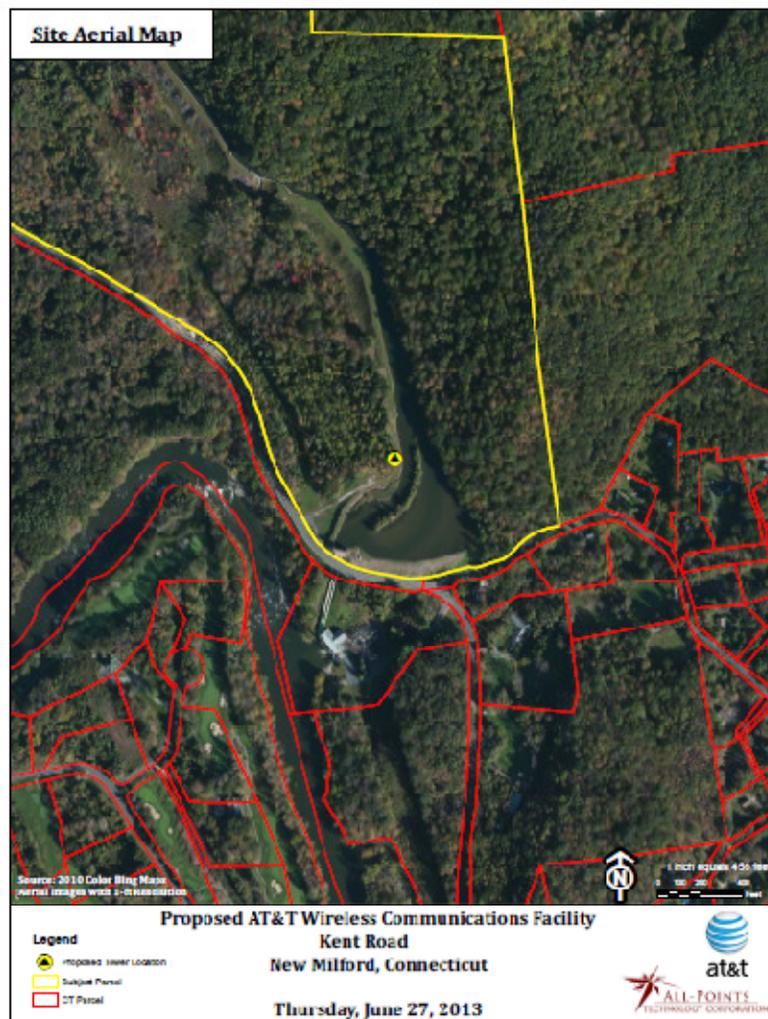


Figure 1: Aerial Map

Included in this Application and its accompanying Attachments are reports, plans and visual materials detailing the proposed Facility and the associated environmental effects. A copy of the Council's Community Antennas Television and Telecommunication Facilities Application Guide with page references from this Application is also included as Attachment 9.

C. The Applicant

New Cingular Wireless PCS, LLC ("AT&T"), is a Delaware limited liability company with an office at 500 Enterprise Drive, Rocky Hill, Connecticut 06067. The company's member corporation is licensed by the Federal Communications Commission (FCC) to a "cellular system" within the meaning of C.G.S. § 16-50i(a)(6). AT&T will construct and maintain the proposed Facility and be the Certificate Holder. AT&T does not conduct any other business in the state of Connecticut other than the provision of personal wireless services under FCC rules and regulations.

Correspondence and/or communications regarding this Application shall be addressed to the attorneys for the Applicant:

Cuddy & Feder LLP  
445 Hamilton Avenue, 14<sup>th</sup> Floor  
White Plains, New York 10601  
(914) 761-1300  
Attention:  
Lucia Chiocchio, Esq.  
Christopher B. Fisher, Esq.

A copy of all correspondence shall also be sent to:

AT&T  
500 Enterprise Drive  
Rocky Hill, Connecticut  
Attention: Michele Briggs

D. Application Fee

Pursuant to R.C.S.A. § 16-50v-1a(b), a check made payable to the Siting Council in the amount of \$1,250 accompanies this Application.

E. Compliance with C.G.S. § 16-50(c)

AT&T does not generate electric power in the state of Connecticut. Accordingly, the proposed Facility is not subject to C.G.S. § 16-50r. Furthermore, the proposed Facility is not subject to C.G.S. § 16-50(c) because it has not been identified in any annual forecast reports.

II. **Service and Notice Required by C.G.S. § 16-50(b)**

Pursuant to C.G.S. § 16-50(b), copies of this Application have been sent by certified mail, return receipt requested, to municipal, regional, state, and federal officials. A certificate of service, along with a list of the parties served with a copy of the Application is included in Attachment 8. Pursuant to C.G.S. § 16-50(b), notice of the Applicant's intent to submit this Application was published on two occasions in The New Milford Spectrum, the newspaper utilized for publication of planning and zoning notices in the town of New Milford. A copy of the published legal notice is included as Attachment 7. The publishers' affidavits of service will be forwarded upon receipt. Furthermore, in compliance with C.G.S. §16-50(b), notices were sent to each person appearing of record as owner of a property that abuts the parcels upon which Facility is proposed. Certification of such notice, a sample letter and accompanying notice, and the list of property owners to whom the notice was mailed are included in Attachment 7.

III. **Statements of Need and Benefits**

A. Statement of Need

1. United States Policy & Law

United States policy and laws continue to support the growth of wireless networks. In 1996, the United States Congress recognized the important public need for high quality wireless communications service throughout the United States in part through adoption of the Telecommunications Act (the "Act"). A core purpose of the Act was to "provide for a competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies to all Americans." H.R. Rep. No. 104-458, at 206 (1996) (Conf. Rep.). With respect to wireless communications services, the Act expressly preserved state and/or local

land use authority over wireless facilities, placed several requirements and legal limitations on the exercise of such authority, and preempted state or local regulatory oversight in the area of emissions as more fully set forth in 47 U.S.C. § 332(c)(7). In essence, Congress struck a balance between legitimate areas of state and/or local regulatory control over wireless infrastructure and the public's interest in its timely deployment to meet the public need for wireless services.

Sixteen years later, it remains clear that the current White House administration, The Congress and the FCC continue to take a strong stance and act in favor of the provision of wireless service to all Americans. In December 2009, President Obama issued Proclamation 8460 which included wireless facilities within his definition of the nation's critical infrastructure and declared in part:

Critical infrastructure protection is an essential element of a resilient and secure nation. Critical infrastructure are the assets, systems, and networks, whether physical or virtual, so vital to the United States that their incapacitation or destruction would have a debilitating effect on security, national economic security, public health or safety. From water systems to computer networks, power grids to cellular phone towers, risks to critical infrastructure can result from a complex combination of threats and hazards, including terrorist attacks, accidents, and natural disasters.<sup>1</sup>

President Obama further identified the critical role of robust mobile broadband networks in his 2011 State of the Union address.<sup>2</sup> In 2009, The Congress directed the FCC to develop a national broadband plan to ensure that every American would have access to "broadband capability" whether by wire or wireless. What resulted in 2010 is a document entitled "Connecting America: The National Broadband Plan" (the "Plan").<sup>3</sup> Although broad in scope, the Plan's goal is undeniably clear:

[A]dvance consumer welfare, civic participation, public safety and homeland security, community development, health care delivery, energy

---

<sup>1</sup> Presidential Proclamation No. 8460, 74 C.F.R. 234 (2009).

<sup>2</sup> Cong. Rec. H459 (Jan. 25, 2011), also *available at* <http://www.whitehouse.gov/the-press-office/2011/01/25/remarks-president-state-union-address>. Specifically the President stressed that in order "[t]o attract new businesses to our shores, we need the fastest, most reliable ways to move people, goods, and information—from high-speed rail to high-speed Internet."

<sup>3</sup> Connecting America: The National Broadband Plan, Federal Communications Commission (2010), *available at* <http://www.broadband.gov/plan/>.

independence and efficiency, education, employee training, private sector investment, entrepreneurial activity, job creation and economic growth, and other national purposes.<sup>4</sup> [internal quotes omitted]

The Plan notes that wireless broadband access is growing rapidly with “the emergence of broad new classes of connected devices and the rollout of fourth-generation (4G) wireless technologies such as Long Term Evolution (LTE) and WiMAX.”<sup>5</sup> A specific goal of the Plan is that “[t]he United States should lead the world in mobile innovation, with the fastest and most extensive wireless networks of any nation.”<sup>6</sup> In April 2011, the FCC issued a Notice of Inquiry concerning the best practices available to achieve wide-reaching broadband capabilities across the nation including better wireless access for the public.<sup>7</sup> The public need for timely deployment of wireless infrastructure is further supported by the FCC’s Declaratory Ruling interpreting § 332(c)(7)(B) of the Telecommunications Act and establishing specific time limits for decisions on land use and zoning permit applications.<sup>8</sup> More recently, the critical importance of timely deployment of wireless infrastructure to American safety and economy was confirmed in the Middle Class Tax Relief and Job Creation Act of 2012, which included a provision, Section 6409, that preempts a discretionary review process for eligible modifications of existing wireless towers or base stations.<sup>9</sup>

## 2. United States Wireless Usage Statistics

Over the past thirty years, wireless communications have revolutionized the way Americans live, work and play.<sup>10</sup> The ability to connect with one another in a mobile environment has proven essential to the public’s health, safety and welfare. As of June 2012, there were an estimated 321.7 million wireless subscribers in the United

---

<sup>4</sup> Id. at XI.

<sup>5</sup> Id. at 76.

<sup>6</sup> Id. at 25.

<sup>7</sup> FCC 11-51: Notice of Inquiry, In the Matter of Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting, available at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2011/db0407/FCC-11-51A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2011/db0407/FCC-11-51A1.pdf).

<sup>8</sup> WT Docket No. 08-165- Declaratory Ruling on Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to Ensure Timely Siting Review and to Preempt Under Section 253 State and Local Ordinances that Classify All Wireless Siting Proposals as Requiring a Variance (“Declaratory Ruling”).

<sup>9</sup> Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6409 (2012), available at <http://qpo.gov/fdsys/pkg/BILLS-112hr3630enr/pdf/BILLS-112hr3630enr.pdf>; see also H.R. Rep. No. 112-399 at 132-33 (2012)(Conf. Rep.), available at <http://www.gpo.gov/fdsys/pkg/CRPT-112hrpt399/pdf/CRPT-112hrt399.pdf>.

<sup>10</sup> See, generally, History of Wireless Communications, *available at* [http://www.ctia.org/media/industry\\_info/index.cfm/AID/10388](http://www.ctia.org/media/industry_info/index.cfm/AID/10388) (2011)

States.<sup>11</sup> Wireless network data traffic was reported at 341.2 billion megabytes, which represents a 111% increase from the prior year.<sup>12</sup> Other statistics provide an important sociological understanding of how critical access to wireless services has become. In 2005, 8.4% of households in the United States had cut the cord and were wireless only.<sup>13</sup> By 2011, that number grew exponentially to an astonishing 35.8% of all households.<sup>14</sup> Connecticut in contrast lags behind in this statistic with 18.7% wireless only households.<sup>15</sup>

Wireless access has also provided individuals a newfound form of safety. Today, approximately 70% of *all* 9-1-1 calls made each year come from a wireless device.<sup>16</sup> Parents and teens have also benefited from access to wireless service. In a 2010 study conducted by Pew Internet Research, 78% of teens responded that they felt safer when they had access to their cell phone.<sup>17</sup> In the same study, 98% of parents of children who owned cell phones stated that the main reason they have allowed their children access to a wireless device is for the safety and protection that these devices offer.<sup>18</sup>

Wireless access to the internet has also grown exponentially since the advent of the truly “smartphone” device. Cisco reported in 2011 that global mobile data traffic grew in 2010 at a rate faster than anticipated and nearly tripling again for the third year in a row.<sup>19</sup> It was noted in 2010, mobile data traffic alone was three times greater than all global Internet traffic in 2000. Indeed, with the recent introduction of tablets and netbooks to the marketplace, this type of growth is expected to persist with Cisco projecting that mobile data traffic will grow at a compound annual growth rate (CAGR) of 92% from 2010 to 2015.<sup>20</sup>

---

<sup>11</sup> CTIA’s Wireless Industry Indices: Semi-Annual Data Survey Results, A Comprehensive Report from CTIA Analyzing the U.S. Wireless Industry, Mid-Year 2012 Results (Semi-Annual Data Survey Results). See also, “CTIA-The Wireless Association Semi-Annual Survey Reveals Historical Wireless Trend” *available at* <http://www.ctia.org/media/press/body.cfm/prid/2133>.

<sup>12</sup> *Id.*

<sup>13</sup> CTIA Fact Sheet (2010), *available at* [http://www.ctia.org/media/industry\\_info/index.cfm/AID/10323](http://www.ctia.org/media/industry_info/index.cfm/AID/10323) *citing* Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January - June 2010, National Center for Health Statistics, December 2010 Fact Sheet

<sup>14</sup> CTIA Fact Sheet

<sup>15</sup> CTIA Fact Sheet

<sup>16</sup> Wireless 911 Services, FCC, *available at* <http://www.fcc.gov/guides/wireless-911-services>

<sup>17</sup> Amanda Lenhart, *Attitudes Towards Cell Phones*, Pew Research, *available at* <http://www.pewinternet.org/Reports/2010/Teens-and-Mobile-Phones/Chapter-3/Overall-assessment-of-the-role-of-cell-phones.aspx>

<sup>18</sup> *Id.*

<sup>19</sup> Cisco Visual Networking Index: Global Mobile Data Traffic Forecast Update, 2010–2015, February 1, 2011.

<sup>20</sup> *Id.*

### 3. Site Specific Public Need

The facility proposed in this Application is an integral component of AT&T's network in its FCC licensed areas throughout the state. There is a significant coverage deficiency in the existing AT&T wireless communications network in the Gaylordsville area of New Milford in the vicinity of U.S. Route 7 (Kent Road) as well as local roads, homes, businesses, and schools in the surrounding area. A deficiency in coverage is evidenced by the inability to adequately and reliably transmit/receive quality calls and/or utilize data services offered by the network. The proposed Facility, in conjunction with other existing and approved facilities in and around New Milford and Kent is needed by AT&T to provide its wireless services to people living in and traveling through this area of the state. Attachment 1 of this Application includes a Radio Frequency ("RF") Engineering Report with propagation plots and other information which identifies and demonstrates the specific need for a facility in this area of the State to serve the public and meet its need and demand for wireless services.

#### B. Statement of Benefits

Carriers have seen the public's demand for traditional cellular telephone services in a mobile setting develop into a requirement for anytime-anywhere wireless connectivity with critical reliance placed on the ability to send and receive, voice, text, image and video. Provided that network service is available, modern devices allow for interpersonal and internet connectivity, irrespective of whether a user is mobile or stationary, which has led to an increasing percentage of the population to rely on their wireless devices as their primary form of communication for personal, business and emergency needs. The proposed facility would allow AT&T and other carriers to provide these benefits to the public that are not offered by any other form of communication system.

Moreover, AT&T will provide "Enhanced 911" services from the Facility, as required by the Wireless Communications and Public Safety Act of 1999, Pub. L. No. 106-81, 113 Stat. 1286 (codified in relevant part at 47 U.S.C. § 222) ("911 Act"). The purpose of this federal legislation was to promote public safety through the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. In enacting the 911 Act, Congress recognized that networks

that provide for the rapid, efficient deployment of emergency services would enable faster delivery of emergency care with reduced fatalities and severity of injuries. With each year since passage of the 911 Act, additional anecdotal evidence supports the public safety value of improved wireless communications in aiding lost, ill, or injured individuals, such as motorists and hikers. Carriers are able to help 911 public safety dispatchers identify wireless callers' geographical locations within several hundred feet, a significant benefit to the community associated with any new wireless site.

In 2009, Connecticut became the first state in the nation to establish a statewide emergency notification system. The CT Alert ENS system utilizes the state Enhanced 911 services database to allow the Connecticut Department of Homeland Security and Connecticut State Police to provide targeted alerts to the public and local emergency response personnel alike during life-threatening emergencies, including potential terrorist attacks, Amber Alerts and natural disasters. Pursuant to the Warning, Alert and Response Network Act, Pub. L. No. 109-437, 120 Stat. 1936 (2006) (codified at 47 U.S.C. § 332(d)(1) (WARN), the FCC has established the Personal Localized Alerting Network (PLAN). PLAN will require wireless service providers to issue text message alerts from the President of the United States, the U.S. Department of Homeland Security, the Federal Emergency Management Agency and the National Weather Service using their networks that include facilities such as the one proposed in this Application. Telecommunications facilities like the one proposed in this Application enable the public to receive e-mails and text messages from the CT Alert ENS system on their mobile devices. The ability of the public to receive targeted alerts based on their geographic location at any given time represents the next evolution in public safety, which will adapt to unanticipated conditions to save lives.

### C. Technological Alternatives

The FCC licenses granted to AT&T authorize it to provide wireless services in this area of the state through deployment of a network of wireless transmitting sites. Repeaters, microcell transmitters, distributed antenna systems (DAS) and other types of transmitting technologies are not a practicable or feasible means to providing service within the service area for this site. These technologies are better suited for specifically defined areas where new coverage is necessary, such as commercial buildings, shopping malls, and tunnels, or to address capacity. Closing the coverage gaps and providing reliable wireless services in northwestern New Milford requires a

tower site that can provide reliable service over a footprint that spans several thousand acres. The Applicant submits that there are no equally effective technological alternatives to the construction of the proposed Facility for providing reliable personal wireless services in this area of Connecticut.

#### **IV. Site Selection and Tower Sharing**

##### **A. Site Selection**

When AT&T makes a determination that new wireless infrastructure is needed to improve its services in a given area, AT&T establishes a “site search area.” The site search area is the general geographic location where the installation of a new wireless facility would address identified service deficiencies. Central to AT&T’s goal of locating a viable site or sites within the site search area is the need for the orderly integration of a new site into AT&T’s network.

Once a site search area is established, AT&T real estate and radiofrequency engineering personnel utilize it as a guide in their search for site locations. In any site search area, AT&T seeks to avoid the unnecessary proliferation of towers and to reduce the potential adverse environmental effects of a needed facility, while at the same time seeking to ensure the quality of service provided to the users of its network. In this area of New Milford, reviews conducted by AT&T’s RF engineers and investigative visits made by AT&T’s consultants did not identify any existing tower facilities that could be used by AT&T to serve this area of the state. AT&T’s search for tower sites in the area of U.S. Route 7 identified the FirstLight Hydro Generating site as the only viable location for a tower facility.

As indicated in the Site Search Summary, submitted as Attachment 2, all but the proposed site were rejected for use as a wireless facility site. Several sites were rejected by AT&T’s RF engineer due to the terrain in this area and associated impacts to signal propagation.

##### **B. Tower Sharing**

To maximize co-location opportunities, as proposed the proposed Facility will be able to host up to three (3) additional carriers.

### C. Facility Design

AT&T has leased a 100' x 100' area in the southwestern portion of the approximately 168.5 acre parcel owned by the FirstLight Hydro Generating Company. The proposed Facility would consist of a 150' tall self supporting monopole within a 75' x 75' equipment compound. AT&T would install panel antennas in three sectors at a centerline height of approximately 146' AGL on the tower, unmanned equipment in a 12' x 20' equipment shelter as well as a propane fueled back-up generator and propane tank within the fenced compound. The compound would be enclosed by an eight (8) foot tall chain link fence. Both the monopole and equipment compound are designed to accommodate the facilities of other wireless carriers.

Vehicular access to the Facility would be provided from Kent Road over an existing paved driveway, then along a dirt road that will be upgrade to a 12' wide gravel drive a distance of approximately 430' to the equipment compound. Electric and telephone utilities would be extended underground to the proposed Facility from the nearest existing utility distribution pole. Attachment 3 contains the specifications for the proposed Facility including site access drive plans, a compound plan, tower elevation, and other relevant details of the proposed Facility. Also included is a Visual Resource Evaluation (Attachment 5) and information related to the environmental impact of the proposed Facility (Attachment 4). Some of the relevant information included in Attachments 3, 4 and 5 reveals that:

- The property is classified locally in the "R-80 Residential" zoning district;
- Moderate grading of the access drive will be required to upgrade the existing dirt road to a gravel drive;
- The proposed Facility will have no significant impact on water flow, water quality, or air quality;
- Topography and vegetation screen visibility of the tower(s) from a large portion of the viewshed study area;
- Year-round visibility of the proposed tower is limited to approximately .78% of the 8,042- acre study area;

- The wetland feature associated with Cedar Hill Pond is located approximately 135' from the proposed Facility compound; and
- The Department of Energy and Environmental Protection (DEEP) issued a "no negative impacts" determination for the proposed Facility.

## **V. Environmental Compatibility**

Pursuant to C.G.S. §16-50p(a)(3)(B), the Council is required to find and to determine as part of the Application process any probable impact of the proposed Facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forest and parks, air and water purity, and fish and wildlife. As demonstrated in this Application, the proposed Facility will be constructed in compliance with applicable regulations and guidelines, and best practices will be followed so as to ensure that the construction of the proposed Facility will not have a significant adverse environmental impact. Furthermore, the regular operation and monthly maintenance of the Facility is not anticipated to have any environmental impact.

### **A. Visual Assessment**

A Visibility Analysis is included as Attachment 5, which contains a viewshed map and photographs and photo simulations of the proposed Facility from the surrounding area. It is anticipated that approximately 62 acres or .78% of the 8,042-acre study area will have at least partial year-round visibility of the proposed Facility in the immediate area of the site and extending generally northwest along the Route 7 corridor for a distance of approximately 0.75 mile. The Visibility Analysis also concludes that seasonal visibility is anticipated over an additional 140 acres of the 8,042 acre study area primarily to the south, extending down Route 7 and across the Housatonic River. Views from these areas will be limited and distant as the hillside will provide a backdrop and the monopole will not extend above the hillside. (See Photograph No. 6 in the Visibility Analysis). No schools or commercial child day care centers are located within 250' of the site.

Weather permitting, AT&T will raise a balloon with a diameter of at least three (3) feet at the proposed Site on the day of the Council's first hearing session on this Application, or at a time otherwise specified by the Council.

## B. Wetlands

The majority of the subject site consists of open water associated with the Cedar Hill Pond created by a dam of a diversion canal of the Housatonic River for the purposes of generating hydroelectric power. Two wetland areas are located on the site. As indicated in the Wetlands Investigation report included in Attachment 4, one wetland consists of a well-developed western bank of the Cedar Hill Pond created by Cedar Hill Dam and the other wetland consists of a small isolated back-water wetland area adjacent to Kent Road. At its closest point, the fenced boundary of the proposed Facility is approximately 380' from the wetland associated with Cedar Hill Pond and the closest point of the access drive is located approximately 18' from this wetland. As shown in the attached Facility drawings, the proposed access drive design includes storm water management and erosion control features.

As set forth in the attached Wetlands Investigation report, no impacts to on-site wetlands are anticipated from construction or operation of the Facility. Moreover, while the wetlands identified on the subject site may be considered Waters of the United States subject to U.S. Army Corps of Engineers ("ACOE") jurisdiction, the proposed Facility will not result in any direct impacts to wetlands. Thus, the proposed Facility is categorically excluded from ACOE review in accordance with National Environmental Policy Act.

All appropriate sediment and erosion control measures will be designed and employed in accordance with the Connecticut Soil Erosion Control Guidelines, as established by the Council of Soil and Water Conservation.

## C. Solicitation of State and Federal Agency Comments

Consultations with municipal, state and federal governmental entities and AT&T's consultant reviews for potential environmental impacts are summarized and included in Attachment 4. AT&T's consultants submitted requests for review from federal, state and tribal entities including the DEEP and the Connecticut State Historic Preservation Officer (SHPO).

On August 8, 2013, DEEP issued a determination that the proposed Facility is not anticipated to result in negative impacts to any Federal or State Endangered, Threatened or Special Concern Species. A copy of DEEP's determination is included

in Attachment 4. SHPO's determination is pending. However, it is anticipated that the SHPO will issue a no effect determination given that no historic properties are located within the Area of Potential Effect for the proposed Facility and that the subject site is unlikely to contain cultural resources. A copy of Cultural Resources Assessment for the proposed Facility is included in Attachment 4.

As required, this Application is being served on state and local agencies that may choose to comment on the Application prior to the close of the Council's public hearing.

#### D. Power Density

In August of 1996, the FCC adopted a standard for Maximum Permissible Exposure (MPE) for RF emissions from telecommunications facilities like the one proposed in this Application. To ensure compliance with the applicable standards, a maximum power density report is included herein as part of Attachment 4. The report concludes that the calculated worst-case emissions from AT&T's equipment at the proposed Facility are 9.97% of the MPE standard.

#### E. Other Environmental Factors

The proposed Facility would be unmanned, requiring monthly maintenance visits, each approximately one hour long. AT&T's equipment at the Facility would be monitored 24 hours a day, seven days a week from a remote location. The proposed Facility does not require a water supply or wastewater utilities. No outdoor storage or solid waste receptacles will be needed. Furthermore, the proposed Facility will neither create nor emit any smoke, gas, dust, nor other air contaminants, noise, odors, nor vibrations other than those created by installed heating and ventilation equipment. Temporary power outages could require the limited use of an on-site generator. Overall, the construction and operation of AT&T's proposed Facility will not have a significant impact on the air, water, or noise quality of the area.

AT&T utilized the FCC's TOWAIR program to determine whether the proposed Facility would require registration with the Federal Aviation Administration (FAA). The TOWAIR program results for the proposed Facility, a copy of which is included in Attachment 3, indicate that the proposed Facility will not need to be registered with the FAA, and that the FAA will not need to review the proposed Facility as a potential

hazard to air navigation. Accordingly, no FAA lighting or marking would be required for the Facility proposed in this Application.

AT&T has evaluated the site in accordance with the FCC's regulations implementing the National Environmental Policy Act of 1969 (NEPA). The proposed site was not identified as a wilderness area, wildlife preserve, National Park, National Forest, National Parkway, Scenic River, State Forest, State Designated Scenic River or State Gameland. Furthermore, according to the site survey and field investigations, no federally regulated wetlands or watercourses or threatened or endangered species will be impacted by the proposed Facility. Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps of the proposed site indicate that the site is not located within a 100-year floodplain.

## **VI. Consistency with the Town of New Milford's Land Use Regulations**

Pursuant to the Council's Application Guide, included in this section is a narrative summary of the consistency of the proposed Facility with the local municipality's zoning and wetland regulations and plan of conservation and development.

### **A. New Milford's Plan of Conservation and Development**

The Town of New Milford's Plan of Conservation and Development ("Plan"), effective August 6, 2010, is included in the Bulk Filing. Telecommunication facilities are addressed in the Utilities chapter, where it is acknowledged that "residents, businesses and emergency providers will continue to depend more on wireless communications." Plan at p. 100. This section of the Plan also notes that the topography of New Milford is a challenge to providing wireless services and that "dead spots" exist which impact emergency communications. Id. Indeed, in the Plan, both the Gaylordsville Fire Department and the New Milford Community Ambulance identified a need to improve communication services. Plan at p. 86-87. It is respectfully submitted that AT&T's proposed Facility will address the important need for reliable wireless services identified in the Plan for the Gaylordsville community.

### **B. Local Zoning Standards and Dimensional Requirements**

The Town of New Milford Zoning Regulations set forth general requirements for telecommunications facilities. The Facility site is classified in the R-80 (residential)

zoning district. The table below provides a review of general requirements of tower facilities under the Town of New Milford Zoning Regulations accompanied by compliance of the Facility with those requirements.

Zoning Regulation	Proposed Facility
<i>Section 150-040 General Provisions</i>	
(3) The proposed support structure shall be designed to hold additional antennas	The proposed Facility is designed to accommodate the facilities of other wireless carriers.
(5) All towers shall meet the minimum set back requirements for the zone. In addition, a tower shall be set back from all property lines a distance equal to 1.5 times the tower height.	1.5 times the proposed tower height of 150' is 225'. The distance of the tower to the closest property line approximately 390'.
<i>Section 150-050 Application Requirements</i>	
(10.a) Commercial Advertising shall not be allowed on an antenna or tower.	The proposed Facility does not include any commercial advertising.
(10.b) Signal lights or illumination shall not be permitted unless required by the FCC or FAA.	No signal lights or illumination is proposed.
(12) Landscaping and Screening Requirements: For a new facility a fence with a minimum height of eight (8) feet shall be provided. A landscaping plan shall be provided to screen building(s), fuel tanks, and other man-made structures and as much of the tower as possible. The plan shall show an evergreen screen surrounding the site.	The proposed monopole, equipment shelter and back-up power provisions will be enclosed within an 8-foot tall fence. Existing mature vegetation provides screening of the proposed Facility.

<p>(13) Site Plan Map: A site plan prepared by a Connecticut licensed engineer showing construction and drainage improvements, including the access road and construction or drainage improvements, including above ground wires, cables, ducts, utility and signal cables and guying and guy-anchor details. A statement from the applicant indicating that, weather permitting, the applicant will raise a balloon with a diameter of at least three (3) feet to the proposed tower height, at the proposed tower site. Such a balloon shall be raised at least three (3) continuous days prior to the date of the public hearing to visualize the proposed facility.</p>	<p>Drawings with details of the proposed Facility are included in Attachment 3. In addition, construction drawings will be provided with any D&amp;M Plan submission. Weather permitting, a balloon will be flown at the proposed site on the day of the Siting Council hearing.</p>
<p>(14) A facility maintenance plan describing maintenance needs including frequency of service, personnel needs equipment needs and traffic, noise or safety impacts of such maintenance shall also be required.</p>	<p>The proposed Facility is unmanned requiring monthly maintenance visits, each approximately one hour long. Maintenance will not result in traffic noise or safety impacts.</p>

C. Planned and Existing Land Uses

No development of the proposed Facility site is anticipated given the use of the subject site by FirstLight Hydro Generating Company. Properties surrounding the subject site are rural in nature and heavily wooded. Consultation with municipal officials did not indicate any planned changes to the existing or surrounding land uses.

#### D. New Milford's Inland Wetlands and Watercourses Regulations

The Town of New Milford's Inland Wetlands and Watercourses Regulations ("Wetlands Regulations") regulate certain activities within the Town conducted in "wetlands" and "watercourses" as defined therein. Most of the subject site consists of open water associated with the Cedar Hill Pond created by a dam of diversion canal from the Housatonic River for the purpose of generating hydroelectric power. As set forth in the Wetlands Investigation report, two wetlands area were delineated on the subject site consisting of a well-developed western bank of the Cedar Hill Pond and a small isolated back-water wetland area adjacent to Kent Road.

The Town's Wetlands Regulations incorporate the following definition for a regulated activity:

REGULATED ACTIVITY - means any operation within or use of a wetland, watercourse or upland review area involving removal or deposition of material, or any obstruction, construction, alteration or pollution of such wetlands, watercourses or upland review area or any operation or use of land that may disturb the natural and indigenous character of a wetland, watercourse or upland review area but shall not include the activities specified in Section 4 of these regulations. Furthermore, the Commission may rule that activities located within any non-wetland or non-watercourse areas are likely to impact or affect wetlands or watercourse and as such constitute a regulated activity.

UPLAND REVIEW AREA - means any portion of land within two hundred (200) feet of the ordinary high waterline of Candlewood Lake, the east or west branch of the Aspetuck River, the Still River, the Housatonic River or watercourses within the West Aspetuck River watershed, within one hundred (100) feet of the ordinary high waterline of any other watercourse, or within one hundred (100) feet of any wetlands whichever is greater.

The Town's wetlands regulations authorize the Commission to issue permits without a public hearing for a regulated activity that is determined as "not a significant activity". While local wetland regulations are guidance only and no Town permits would be

required for construction of the Facility, review of the Town of New Milford's wetlands regulations, construction of the Facility would likely be considered "not a significant activity".

## VII. Consultation with Municipal Officials

C.G.S. § 16-50/ requires the Applicant to consult with the municipality in which the proposed Facility may be located, and with any adjoining municipality having a boundary within 2,500 feet of the proposed Facility. The Applicant submitted a Technical Report to Mayor Patricia A. Murphy on July 10, 2013.

At the Town's request, a noticed public information meeting was included as part of the New Milford Zoning Commission August 27, 2013 regular meeting. At this meeting, AT&T presented the project and answered questions from the Zoning Commission and others in attendance. The Zoning Commission's August 27, 2013 meeting minutes are also enclosed in Exhibit 6. No alternative sites or preferences were provided to AT&T as a result of its Section 16-50I consultation. While the monopine design was discussed with the Zoning Commission at the information meeting, a preference for this design alternative was not formally requested.

## VIII. Estimated Cost and Schedule

### A. Overall Estimated Cost

The estimated cost of construction for the proposed Facility is represented in the table below.

<b>Requisite Component</b>	<b>Cost (USD)</b>
Tower & Foundation	\$90,000
Site Development	\$90,000
Utility Installation	\$55,000
Facility Installation	\$65,000
Antennas & Equipment	\$250,000
<b>Total Cost</b>	<b>\$550,000</b>

**Figure 2 Estimated Costs**

## B. Overall Scheduling

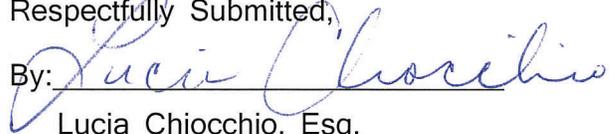
Site preparation work would commence immediately following Council approval of a Development and Management ("D&M") Plan, the issuance of a Building Permit by the Town of New Milford and final utility arrangements with CL&P. The site preparation phase for the proposed Facility is expected to be completed within three (3) to four (4) weeks. Installation of the monopole, antennas and associated equipment is expected to take an additional two (2) weeks. The duration of the total construction schedule is approximately six (6) weeks. Facility integration and system testing is expected to require an additional two (2) weeks after the construction is completed.

## IX. **Conclusion**

This Application and the accompanying materials and documentation demonstrate clearly that a public need exists in the northwest portion of the Town of New Milford for a new tower for the provision of reliable wireless services to the public. The foregoing information and attachments also demonstrate that the proposed Facility at the FirstLight Hydro Generating Company will not have any substantial adverse environmental effects and that there are no practical alternatives. The Applicant respectfully submits that the public need for the proposed Facility outweighs any potential environmental effects resulting from the construction of the proposed Facility at the site. Accordingly, the Applicant respectfully request that the Council grant its Application for a Certificate of Environmental Compatibility and Public Need for the proposed wireless telecommunications Facility at the FirstLight Hydro Generating Company site on Kent Road in the Town of New Milford.

Respectfully Submitted,

By:



Lucia Chiochio, Esq.

Christopher B. Fisher, Esq.

Cuddy & Feder LLP

445 Hamilton Avenue, 14<sup>th</sup> Floor

White Plains, New York 10601

(914) 761-1300

Attorneys for the Applicant